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December 15, 2023

VIA CM/ECF

MEMORANDUM ENDORSED

Hon. Gregory H. Woods
 United States District Court, Southern District of New York
 500 Pearl Street, Room 1920, New York, NY 10007

Re: *U.S. Bank National Association, et al. v. The Charitable Donor Advised Fund, L.P. and CLO HoldCo Ltd. (Case No. 1:21-cv-11059-GHW)*

Dear Judge Woods,

Plaintiffs/Counter-Defendants U.S. Bank, National Association, in its capacity as trustee (the “Trustee”), Acis Capital Management, L.P. (“ACM”), and Joshua N. Terry (“Mr. Terry,” and, together with ACM and the Trustee, “Plaintiffs”), Defendants/Counter-Plaintiffs Charitable DAF Fund, LP a/k/a The Charitable Donor Advised Fund, L.P. (“DAF”), CLO HoldCo, Ltd. (“CLOH”), and NexPoint Diversified Real Estate Trust (“NexPoint,” and, together with DAF and CLOH, “Defendants”), and Counter-Defendant Brigade Capital Management, LP (“Brigade,” and, collective with Plaintiffs and Defendants, the “Parties”) jointly submit this letter pursuant to Paragraph 1.E of the Court’s Individual Rules of Practice in Civil Cases to request a brief extension of expert discovery deadlines set out in the Court’s Case Management Plan and Scheduling Order (the “CMO,” Dkt. 76, as amended by Dkts. 159, 191, 196, 211, 222). This is the sixth request for an extension. All Parties consent to the Request. Counter-Defendant Highland CLO Funding, Ltd. (“HCLOF”) is not a party to this letter and takes no position with respect to the extension of the deadlines as it is not participating in discovery per the Court’s August 4, 2023, Order (Dkt. 172).

To accommodate scheduling conflicts and as a matter of professional courtesy, the Parties have agreed to jointly seek an extension of the deadline for opposing/rebuttal expert disclosures from December 19, 2023 to January 5, 2024 (*see* Dkt. 222); and extending the close of expert discovery from January 16, 2024 to February 2, 2024 (*see id.*). The parties also propose extending the deadline to move for summary judgment from February 13, 2024 to March 22, 2024 (*see* Dkt. 211). The parties do not seek to extend any other deadlines. The parties respectfully propose to keep the February 2, 2024, status conference to apprise the Court about the status of the case and address whether the Court would be inclined to defer briefing on summary judgment until after a resolution of the parties’ pending motions to dismiss.

The Parties and HCLOF respectfully reserve their rights to seek additional revisions. Further, CLOH and DAF respectfully specifically reserve their rights to seek additional revisions depending upon the resolution of their pending motions to compel (Dkts. 205 and 206) and of HCLOF’s pending motion to dismiss (Dkt. 177).

In making this proposal, none of the Parties waive any of their respective substantive or procedural rights, all of which they respectively reserve.

The Parties thank the Court for its attention to this request.

Respectfully Submitted,

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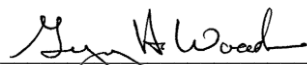
***Counsel for NexPoint Diversified Real
Estate Trust***

Application granted. The parties' discovery deadlines are hereby modified as follows: (1) the deadline for completion of expert discovery is extended to February 2, 2024; (2) the deadline for disclosures, under F.R.C.P. 26(a)(2), of party-opponents that intend to offer expert testimony on claims is extended to January 5, 2024; and (3) the deadline for filing of motions for summary judgment is extended to March 22, 2024. All other deadlines remain in full force and effect. The Clerk of Court is directed to terminate the motion pending at Dkt. No. 231.

SO ORDERED.

Dated: December 15, 2023

New York, New York



GREGORY H. WOODS
United States District Judge